

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;  
William L. Massey, and Linda Breathitt.

San Diego Gas & Electric Company,  
Complainant,

v.

Docket No. EL00-95-009

Sellers of Energy and Ancillary Services  
Into Markets Operated by the California  
Independent System Operator and the  
California Power Exchange,  
Respondents.

Investigations of Practices of the California  
Independent System Operator and the  
California Power Exchange

Docket No. EL00-98-007

ORDER FINDING VIOLATION OF PRIOR COMMISSION ORDER  
AND FEDERAL POWER ACT, AND REQUIRING IMMEDIATE RECALCULATION OF  
WHOLESALE RATES

(Issued January 29, 2001)

In this order, we find that the California Power Exchange Corporation (PX) is violating the Commission's December 15, 2000 order in this proceeding (December 15 Order)<sup>1</sup> and the Federal Power Act. To remedy this continuing violation, we direct the PX to implement proposed revisions to its tariff effective January 1, 2001, in a manner consistent with the December 15 Order. Moreover, we direct the PX to recalculate the wholesale rates consistent with these tariff revisions.

We take this action to ensure that sellers into markets run by the PX receive only their actual bids, rather than the highest price bid, above the breakpoint established in the

---

<sup>1</sup>San Diego Gas & Electric Company, et al., 93 FERC ¶ 61,294 (2000), reh'g pending.

December 15 Order. This action ensures that distressed California utilities and California ratepayers are not saddled with millions of dollars in wholesale costs billed by the PX in clear violation of the December 15 Order.

### Background

On November 1, 2000, the Commission issued an order in this proceeding proposing specific remedies to address dysfunctions in California's wholesale bulk power markets (November 1 Order).<sup>2</sup> The December 15 Order adopted many of these proposed remedies, including a revision to the PX Day-Ahead and Day-Of energy markets (Spot Markets). Prior to the Commission's December 15 Order the PX Spot Markets operated as single-price auctions in which all sellers, regardless of their actual bids, received the highest price bid that was needed to clear the market.

To correct the serious dysfunctions in wholesale power markets in California and to ensure that the rates set in the PX Spot Markets are just and reasonable pursuant to the requirements of the Federal Power Act, the December 15 Order required that, effective January 1, 2001, the PX modify its pricing system by implementing a \$150/MWh breakpoint.<sup>3</sup> In other words, the single price auction would be used for all sale offers at or below \$150/MWh. If an auction did not clear at or below the \$150/MWh bid level, suppliers who bid above \$150/MWh would be paid their as-bid price for the quantity that they bid, but their bids would not set the market clearing price.<sup>4</sup> The December 15 Order also directed the PX to submit a compliance filing within 15 days of the date of the order.<sup>5</sup>

### Instant Compliance Filing

On January 2, 2001, the PX filed tariff revisions reflecting the \$150/MWh breakpoint market revision in compliance with the December 15 Order. However, the PX states that it is "unable to implement the \$150 breakpoint by January 1, 2001, and [can] not

---

<sup>2</sup>San Diego Gas & Electric Company, et al., 93 FERC ¶ 61,121 (2000), reh'g pending.

<sup>3</sup>December 15 Order, slip op. at 5, 30, and 53-57.

<sup>4</sup>The Commission also ordered the California Independent System Operator Corporation (ISO) to implement the identical breakpoint and as-bid revisions in all of the markets that it operates, effective January 1, 2001.

<sup>5</sup>December 15 Order, slip op. at 76.

provide a precise date by which such compliance would be possible."<sup>6</sup> The compliance filing also incorporated by reference the PX's previously filed Request for Rehearing and Emergency Motion for Stay.<sup>7</sup> The PX goes on to state, "If neither rehearing nor a stay is granted, the new rate sheet will take effect as soon as [the PX] is physically able to implement the breakpoint."<sup>8</sup> The PX has also submitted revised rate schedules for unbundled scheduling services provided by its CalPX Trading Services division (CTS).

#### Notices and Responsive Pleadings

Notice of the PX's compliance filing was published in the *Federal Register*, 66 *Fed. Reg.* 2,897 (2001), with comments, protests, and interventions due on or before January 23, 2001. The Commission subsequently issued a notice shortening the comment period to and including January 19, 2001. Sacramento Municipal Utility District filed a motion to intervene. Pacific Gas and Electric Company (PG&E) filed a protest and a request that the Commission take whatever steps are necessary to ensure that the PX complies with the December 15 Order.

On January 25, 2001, the PX submitted a letter suggesting an alternative compliance mechanism to the December 15 Order. Specifically the PX proposes to continue to bill market participants using the single price market clearing auction and to: (1) retain all payments received in February 2001 for January 2001 transactions; and (2) provide all billing data directly to the Commission to determine the appropriate payments and charges.

---

<sup>6</sup>PX compliance filing at 2.

<sup>7</sup>The Commission will address requests for rehearing of the December 15 Order in a separate order. However, on January 8, 2001, we issued an order clarifying the December 15 Order stating that "our determination to terminate the PX's existing wholesale rate schedules was not intended to preclude the PX from engaging in bilateral forward contracting." See 94 FERC ¶ 61,005 (2001).

<sup>8</sup>PX compliance filing at 2-3.

### Discussion

We find that the PX is in violation of our order to apply an as-bid price for bids above \$150/MWh and therefore is causing unjust and unreasonable wholesale rates in California in violation of the Federal Power Act. Further, as discussed below, the PX has not given an acceptable justification for refusing to comply with the Commission's directives in the December 15 Order. We will insist on compliance with our order. We therefore direct the PX to implement immediately the provisions of the December 15 Order requiring that the PX pay suppliers in the PX markets their as-bid price above the \$150/MWh breakpoint. We further direct the PX to recalculate the market clearing price for all energy that has been provided in its Day-Ahead and Day-Of markets since January 1, 2001, consistent with the provisions of its revised tariff sheets.

As noted in the December 15 Order, the PX has acknowledged that it could, with some relatively easy software changes, implement as-bid payments above the \$150/MWh breakpoint by requiring those suppliers to offer that energy in the PX's Block Forward Market (BFM) Daily Block Market, which is a pay as-bid market.<sup>9</sup> The December 15 Order directed the PX to put as-bid prices in its BFM Daily Block Market if that procedure were the quickest method to meet the January 1, 2001 deadline.<sup>10</sup> The only rationale offered by the PX for violating the effective date is that the changes are considerably more complex, time consuming, and costly than originally envisioned.<sup>11</sup> Moreover, the PX contends that without knowing exactly how the ISO will implement the \$150/MWh breakpoint, it cannot finalize a plan of action.

We disagree. The PX states that, in order to settle transactions, it needs to identify participant, quantity, and price for each individual transaction. However, the PX acknowledges that this process can be done manually.<sup>12</sup> Accordingly, we direct the PX to recalculate manually the settlements of all market participants from January 1, 2001 forward. We note that the ISO, in its January 2, 2001 compliance filing to the December 15 Order, stated that it began to calculate settlements in its markets manually effective

---

<sup>9</sup>December 15 Order, slip op. at 49.

<sup>10</sup>*Id.* at 56. Similarly, the December 15 Order allowed the ISO the flexibility to implement manual calculations in order to meet the January 1, 2001 effective date.

<sup>11</sup>PX compliance filing, Attachment 1 at 7.

<sup>12</sup>*Id.* at Appendix A.

January 1, 2001.<sup>13</sup> In addition, the ISO states that it has coordinated its implementation of the breakpoint and as-bid requirement with the PX.<sup>14</sup> These factors indicate that the PX can implement the breakpoint and as-bid requirements of the December 15 Order.

The PX has been on notice since November 1, 2000, that the Commission was proposing to institute a breakpoint and as-bid market for the California markets, and has known since December 15, 2000, that the Commission had adopted those proposals as requirements.<sup>15</sup> The PX's noncompliance with the December 15 Order, if unremedied, would cost California consumers substantial amounts of money, and is continuing to exacerbate the dysfunctions in the market. PG&E notes that the PX has issued preliminary settlement statements for January 1-3, 2001, with average prices well above the \$150/MWh breakpoint.<sup>16</sup> PG&E calculated that for a 6,000 MW load and an average price of \$302/MWh for January 2, 2001, the potential overcharge above the breakpoint for just one day was more than \$20 million. Our preliminary review confirms that the PX is erroneously calculating excessive charges. For each day that the \$150/MWh breakpoint is not implemented, the PX is calculating unjust and unreasonable rates and subjecting buyers to excessive charges in violation of the December 15 Order.

Finally, we note that the PX's alternative proposal submitted on January 25, 2001, does not comply with the December 15 Order. Under the proposal, the PX will continue to incorrectly bill customers based on the single price auction. Moreover, the proposal will compound the billing error by allowing the PX to retain all revenues and not pay creditors until after a subsequent Commission order.

Under the conditions of the December 15 Order, the PX is limited to billing, settlement, balance, credit requirements and all other pertinent calculations based upon the \$150/MWh breakpoint and as-bid above that value. For these reasons, we direct the PX to recalculate the wholesale rates to incorporate the \$150/MWh breakpoint and to pay as-bid above that level. We direct the PX to file a compliance report within 30 days of the date of this order reflecting bills computed in accordance with the December 15 Order.

---

<sup>13</sup>ISO compliance filing at 5-6 (submitted in Docket No. EL00-95-008).

<sup>14</sup>Id. at 8.

<sup>15</sup>November 1 Order, at 61,367-369; December 15 Order, slip op. at 5, 30, and 53-57.

<sup>16</sup>PG&E's protest incorporates by reference its Answer to the PX Request for Rehearing and Emergency Motion for Stay.

The Commission orders:

(A) The PX is hereby directed to recalculate the wholesale rates since January 1, 2001, consistent with the proposed tariff changes, and to file a compliance report with the Commission within 30 days of the date of this order.

(B) The PX's proposed tariff changes are hereby accepted for filing to become effective January 1, 2001 and the PX is directed to implement these provisions as of that date. The PX's designations are accepted.

By the Commission.

( S E A L )

David P. Boergers,  
Secretary.